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KERALA GAZETTE

EXTRAORDINARY

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NOTIFICATION

L. A. 4-3155/1958. *26th November 1958.*

The following Bills together with the Statement of Objects and Reasons, is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

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L. A. Bill No. 44 of 1958

THE MUNICIPAL LAWS (AMENDMENT) BILL, 1958.

A

BILL

further to amend the Trivandrum City Municipal Act, the Travancore District Municipalities Act, 1116, and the Cochin Municipal Act, XVIII of 1113.

Preamble.—WHEREAS it is expedient further to amend the Trivandrum City Municipal Act, the Travancore District Municipalities Act, 1116 and the Cochin Municipal Act, XVIII of 1113, for the purposes hereinafter appearing;

BE IT enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, commencement and duration.*—(1) This Act may be called the Municipal Laws (Amendment) Act, 1958.

(2) It shall come into force at noon on the first day of January, 1959 and shall cease to be in force at noon on the first day of January 1962, except as respects things done or omitted to be done before noon on that date; and section 4 of Interpretation and General Clauses Act, 1125 (VII of 1125), shall apply upon the expiry of this Act as if it had then been repealed by an Act of the Kerala State Legislature.

2. *Extension of term of office of Mayor, Chairmen and Councillors.*—Notwithstanding anything to the contrary contained in sections 29 and 57 of the Trivandrum City Municipal Act (IV of 1116) or section 8 of the Travancore District Municipalities Act, 1116 (XXIII of 1116) or section 8 of the Cochin Municipal Act, XVIII of 1113, the term of office of the Mayor, the Chairmen of standing committees and the councillors of the Corporation of the City of Trivandrum constituted under the Trivandrum City Municipal Act and of the councillors of every municipality constituted under the Travancore District Municipalities Act, 1116 or the Cochin Municipal Act, XVIII of 1113, holding office at the commencement of this Act, shall extend up to noon on the first day of April, 1959.

3. *Section 29 of the Trivandrum City Municipal Act to have effect subject to certain modifications.*—The provisions of section 29 of the Trivandrum City Municipal Act (IV of 1116), shall, in their application to the election of the Mayor and the chairman of each standing committee in the year 1959, have effect as if for the words "first day of January", the words and figures "first day of April, 1959" were substituted and the words "in each year" in both the places where they occur, were omitted.

4. *Date of elections and term of office of councillors.*—The provisions of the Trivandrum City Municipal Act (IV of 1116),

G. P. T.

the Travancore District Municipalities Act, 1116, and the Cochin Municipal Act, XVIII of 1113, shall have effect, subject to the following modifications, namely:—

(a) The Government shall—

(i) cause elections to be held, and make appointments of councillors, to the Corporation of the City of Trivandrum so that the newly elected and appointed councillors may come into office, on the first day of April, 1959; and

(ii) cause elections to be held to every municipality constituted under the Travancore District Municipalities Act, 1116 or the Cochin Municipal Act, XVIII of 1113, so that the newly elected councillors may come into office on the first day of April, 1959.

(b) The term of office of the newly elected or appointed councillors shall expire at noon on the first day of January, 1962.

5. *Supersession of council on expressing opinion against extension of term.*— (1) Notwithstanding anything to the contrary contained in section 2, where the council of the Corporation of the City of Trivandrum or the council of a municipality constituted under the Travancore District Municipalities Act, 1116 or the Cochin Municipal Act, XVIII of 1113, has, before the commencement of this Act, passed a resolution with the support of the majority of the sanctioned strength of the council expressing opinion against such extension, or passes such a resolution with such support after the commencement of this Act, it shall be lawful for the Government, by notification in the Gazette, to supersede the council till the first day of April, 1959.

(2) The supersession shall take effect from such date as may be specified in the notification or, if no date is therein specified, from the noon on the date of publication of the notification and thereupon the following consequences shall ensue:-

(a) All the members of the council including the Mayor and chairmen of standing committees or the chairman or vice-chairman, as the case may be, shall forthwith be deemed to have vacated their offices.

(b) All or any of the functions of the council and of the Mayor and chairmen of standing committees or the chairman and vice-chairman, as the case may be, including where the chairman is also the executive authority, his functions as such may, during the period of supersession, be exercised and performed, as far as may be, and to such extent as the Government may determine, by a special officer appointed by the Government in that behalf and such special officer may, if the Government so direct, receive payment for his services from the municipal fund.

(3) When a council is superseded under this section, the Government until the date of the reconstitution thereof and the

reconstituted council thereafter shall be entitled to all the assets and be subject to all the liabilities of the council as on the date of the supersession and on the date of the reconstitution respectively.

6. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act or of the Trivandrum City Municipal Act (IV of 1116) or the Travancore District Municipalities Act, 1116 or the Cochin Municipal Act, XVIII of 1113, as amended by this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

STATEMENT OF OBJECTS AND REASONS.

Under the provisions of the Trivandrum City Municipal Act (Act IV of 1116), the Travancore District Municipalities Act, 1116 (Act XXIII of 1116) and the Cochin Municipal Act, XVIII of 1113, the term of the existing councils of the Corporation of the City of Trivandrum and the various Municipalities in the Travancore-Cochin area of the State will expire on the 1st day of January, 1959. The term of the Municipal Councils in the Malabar area which was due to expire on 1-11-1958 has been extended till 1-4-1959 by Ordinance No. 9 of 1958 and that Ordinance is proposed to be replaced by an Amendment Act during the present session of the Legislative Assembly. In order that the general elections to all the Municipalities in the State of Kerala may be conducted at the same time, it is proposed to extend the term of the existing Council of the Corporation of the City of Trivandrum and the various Municipal Councils in the Travancore-Cochin area also till 1-4-1959. The general elections to all the Municipal Councils in the State is proposed to be conducted during the months of February and March 1959 so that all the new Councils may begin to function from the 1st April, 1959.

The Bill is intended to achieve the above object.

T. V. THOMAS.

THE KERALA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) BILL, 1958.

A Bill to provide for the grant of National and Festival holidays to persons employed in industrial establishments in the State of Kerala.

WHEREAS it is expedient to provide for the grant of National and festival holidays to persons employed in industrial establishments in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Industrial Establishments (National and Festival Holidays) Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "day" means a period of twenty-four hours beginning at mid-night;

(b) "employee" means—

(i) any person (including an apprentice) employed in any industrial establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied;

(ii) any other person employed in any industrial establishment whom the Government may, by notification in the Gazette, declare to be an employee for the purposes of this Act;

(c) "employer" when used in relation to an industrial establishment means a person who has the ultimate control over the affairs of the industrial establishment, and where the affairs of any industrial establishment are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person.

(d) "holiday" means holiday as provided in this Act.

(e) "industrial establishment" means,—

(i) any establishment, industrial, commercial or otherwise, wherein fifty or more persons are employed, or were employed on any day of the preceding twelve months, and includes—

(a) a factory as defined in the Factories Act, 1948 (Central Act 63 of 1948); and

(b) a plantation;

(ii) any other establishment which the Government may, by notification in the Gazette, declare to be an industrial establishment for the purposes of this Act;

(f) "Inspector" means an Inspector appointed under sub-section (1) of section 6;

(g) "plantation" means any estate maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea, which is fifty acres or more in extent, or in which fifty or more persons are employed, or were employed on any day of the preceding twelve months, for that purpose;

(h) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of the work done by him in such employment, and includes—

(i) such allowances, (including dearness allowance) as the employee is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

but does not include—

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension, fund or provident fund, or for the benefit of the employee under any law for the time being in force;

(c) any gratuity payable on the termination of his service;

(d) any sum paid to the employee to defray special expenses entailed on him by the nature of his employment;

(e) any travelling concession.

3. *Grant of National and Festival Holidays.*—Every employee shall be allowed in each calendar year a holiday of one whole day on the 26th January, the 15th August and the 1st May and four other holidays each of one whole day for such festivals as the Inspector may, in consultation with the employer and the employees, specify in respect of any industrial establishment.

4. *Employer to display statement of holidays.*—Every employer shall display in the premises of the industrial establishment, a statement showing the holidays allowed in each calender year under section 3, in such form, within such time and in such manner as may be prescribed.

5. *Wages.*—(1) Notwithstanding any contract to the contrary, every employee shall be paid wages for each of the holidays allowed to him under section 3.

(2) where an employee works on any holiday allowed under section 3, he shall, at his option, be entitled to—

(a) twice the wages; or

(b) wages for such day and to avail himself of a substituted holiday with wages on any other day.

(3) notwithstanding anything contained in sub-section (1) or sub-section (2), an employee who is paid wages by the day or at piece rates shall be entitled to be paid wages for any holiday allowed under section 3—

(i) only at a rate equivalent to the daily average of his wages for the days on which he actually worked during the month immediately preceding such holiday;

(ii) where he works on any such holiday, only at twice the rate mentioned in clause (i), or in lieu thereof, at the rate mentioned in that clause and to avail himself of a substituted holiday with wages at that rate on any other day:

Provided that no such employee shall be entitled to be paid any wages for any of the holidays allowed under this section, if his name was not on the rolls of the industrial establishment continuously for a month immediately prior to the holiday:

Provided further that no such employee shall be entitled to be paid any wages for any of the holidays allowed under this section if he was, enjoying leave with pay.

(4) Any amount due to an employee under this Act shall be recoverable as arrears of land revenue under the Revenue Recovery Act for the time being in force.

6. *Inspectors.*—(1) The Government may, by notification in the Gazette, appoint such persons or such class of persons as they think fit to be Inspectors for the purposes of this Act for such local limits as the Government may specify.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

7. *Powers of Inspectors.*—Subject to any rules made by the Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any place which is, or which he has reason to believe is, an industrial establishment;

(b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise, the evidence of such person as he may deem necessary for carrying out the purposes of this Act;

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

8. *Penalties.*—Any employer who contravenes any of the provisions of section 3 or section 5 shall be punishable with fine which may extend to two hundred and fifty rupees.

9. *Penalty for obstructing Inspector.*—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand in writing by an Inspector any register, record or notice in his custody which may be required to be kept in pursuance of this Act or of any rule made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

10. *Exemptions.*—(1) Nothing contained in this Act shall apply to—

(a) any employee in a position of management;

(b) any employee whose work involves travelling;

(c) any industrial establishment under the control of the Central Government, the Reserve Bank of India, a railway administration operating any railway as defined in clause (20) of Article 366 of the Constitution or a cantonment authority;

(d) any mine or oil field.

(2) The Government may, by notification in the Gazette, exempt either permanently or for any specified period any establishment or class of establishments, or person or class of persons from all or any of the provisions of this Act, subject to such conditions as the Government may deem fit.

11. *Rights and privileges under other laws, etc., not affected.*—Nothing contained in this Act shall adversely affect any rights or privileges which any employee is entitled to with respect to national and festival holidays on the date on which this Act comes into force under any other law, contract, custom or usage, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

12. *Power to make rules.*—(1) The Government may, by notification in the Gazette make rules for the purpose of carrying into effect the provisions of this Act.

(2) In making a rule under this Act, the Government may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(3) All rules made under this Act shall be laid for not less than fifteen days before the Legislative Assembly, as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the Session in which they are so laid or the Session immediately following.

STATEMENT OF OBJECTS AND REASONS

The State Industrial Relations Board constituted by Government to advise them on questions of labour policy, felt that there was need to provide for the grant of National and festival holidays with wages to the workers in the industrial establishments in the State.

This question of holidays with wages had already been considered at the 15th and 16th sessions of the Standing Labour Committee constituted by the Government of India when the view was expressed that there should be seven paid holidays to the industrial workers in the private sector of industrial undertakings and that suitable legislation should be undertaken. But the Government of India did not think it practicable to undertake legislation on an All-India basis. They wanted to have the States to take the initiative in this regard. This Government have, therefore, thought it necessary to promote this legislation and have decided to provide for seven paid National and festival holidays. In fixing the festival holidays there is the obvious difficulty of specifying the days acceptable to all regions because of the varying nature and importance of the festivals in different localities. Therefore, the bill seeks to leave to the workers and the managements to evolve an understanding about the fixation of the particular festival holidays suited to regional and local sentiments.

FINANCIAL MEMORANDUM

Clause 6 of the bill provides for the appointment of Inspectors for the purposes of the Act. It is not proposed to appoint separate Inspectors for this work. The intention of the Government is to appoint Assistant Labour Officers as Inspectors under the Act. Therefore no additional expenditure from the Consolidated Fund will be involved by the passing of this bill.

T. V. THOMAS.

THE KERALA WEIGHTS AND MEASURES ENFORCEMENT (No. 2) BILL, 1958.

(Report of the Select Committee)

The Select Committee to which the Bill was referred have considered the Bill and now submit this, their report, with the Bill as amended by the Select Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 24th November 1958.

3. The Bill was introduced in the Legislative Assembly on the 28th November 1958 and the motion for reference to a Select Committee was adopted on the 5th December 1958.

4. The Committee met on the 6th December 1958.

5. *Clause 21.* The Committee consider that no fee shall be charged for the verification, marking, stamping and adjustment of commercial weights and measures and weighing and measuring instruments for a period of three months from the commencement of the section. A proviso to that effect has therefore been added to clause 21, by the Committee.

6. The other changes made by the Committee are only verbal.

C. ACHUTHA MENON,

Chairman of the Select Committee.

THE KERALA WEIGHTS AND MEASURES ENFORCEMENT (No. 2) BILL, 1958

(*As amended by Select Committee*)

A

BILL

to provide for the enforcement of standard weights and measures and for matters connected therewith.

Preamble.—WHEREAS it is necessary to provide for the enforcement of standard weights and measures and for matters connected therewith;

BE it enacted in the Ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Weights and Measures (Enforcement) Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint; and different dates may be appointed for different provisions of this Act or for different areas or for different classes of undertakings or for different classes of goods.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "commercial weight or measure" means a weight or measure purporting to be a standard weight or measure used in any transaction for trade or commerce;

(b) "Controller" means the Controller of Weights and Measures appointed under sub-section (1) of section 15 or any other officer empowered by the Government to exercise the powers and discharge the duties conferred or imposed on the Controller by or under this Act;

(c) "Inspector" means an Inspector of Weights and Measures appointed under sub-section (1) of section 15 or any other officer empowered by the Government to exercise the powers and discharge the duties conferred or imposed on an Inspector by or under this Act;

(d) "measuring instrument" means any measuring instrument other than a weighing instrument and includes any instrument for measuring length, area, volume or capacity;

(e) "mint" means the mint of the Central Government either in Bombay or in Calcutta;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "reference standards" means the sets of standard weights and measures supplied to the Government by the Central Government in pursuance of sub-section (2) of section 15 of the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956);

(h) "stamping" means marking in such manner as to be, so far as practicable, indelible and includes casting, engraving, etching and branding;

(i) "standard weight or measure" means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956) and includes any other weight or measure the continuance of the use of which is permitted by the Central Government under sub-section (1) of section 14 of the said Act;

(j) "verification" with its grammatical variations, used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument and also includes reverification;

(k) "weighing instrument" means any instrument for weighing and includes scales with the weights belonging thereto, scale-beams, balances, spring balances, steel yards and other weighing machines.

CHAPTER II

STANDARD WEIGHTS AND MEASURES

3. *Working standards.*—(1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transactions for trade or commerce, the Government may cause to be prepared as many sets of authenticated standard weights and measures as they may deem necessary to be called the working standards, and special sets of working standards in relation to bullion and precious stones may also be prepared.

(2) The working standards shall be made of such material and according to such designs and specifications and shall be prepared by such agency and shall be stamped and authenticated by such person or authority and in such manner as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A working standard shall be verified with the secondary standard and marked by such persons, at such places, at such intervals and in such manner as may be prescribed :

Provided that a special working standard in relation to bullion and precious stones shall be verified with the reference standard.

(5) A working standard which is not so verified and marked within the prescribed period shall not be deemed legal or be used for the purposes of this Act.

(6) A working standard which has become defective shall not be deemed legal or be used for the purposes of this Act until it has been verified and marked in the prescribed manner.

4. *Secondary standards.*—(1) For the purpose of verifying the correctness of the working standards, the Government may cause to be prepared at the mint as many sets of authenticated standard weights and measures as they may deem necessary to be called the secondary standards.

(2) The secondary standards shall be made of such material and according to such designs and specifications as may be prescribed and shall be stamped and authenticated by such person or authority as the Central Government may direct.

(3) The secondary standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A secondary standard shall be verified with the reference standard at least once in every period of five years and shall be marked with the date of verification in the prescribed manner by such person or authority as the Government may direct.

(5) A secondary standard which is not so verified and marked within the aforesaid period shall not be deemed legal or be used for the purposes of this Act.

5. *Reference standards.*—The reference standards shall be kept at such places, in such custody and in such manner as the Government may direct.

6. *Standard weighing and measuring instruments.*—(1) For the purpose of verifying the correctness of commercial weights and measures and of weighing and measuring instruments used in transactions for trade or commerce, the Government may cause to be prepared as many sets of weighing and measuring instruments as they may deem necessary.

(2) Such instruments shall be of such kind, kept in such number and shall be verified and stamped in such manner as may be prescribed.

(3) Such instruments shall be kept at all places where secondary standards or working standards are kept.

7. *Prohibition of use of weights and measures other than standard weights and measures.*—(1) Notwithstanding anything contained in any other law or any custom, usage or practice, no unit of mass or measure, other than the standard weight or measure, shall be used in any transaction for trade or commerce, or in any dealing or contract, or for any work to be done, or goods to be sold or delivered in any area or class of goods or undertakings, in respect of which this section has come into force.

(2) Any custom, usage, practice or method of whatever nature whicl permits in any trade a trader, seller or buyer to demand, receive or cause to be demanded or received any quantity of article in excess of or less than the quantity fixed by the weight or measure by which the contract or dealing in respect of the said article has been made, shall be void.

(3) Any transaction, dealing or contract made or had after the expiry of three months from the commencement of this section shall, in so far as it contravenes the provisions of sub-section (1), be void.

8. *Power to prescribe the use of weights only, or measures only, in certain cases.*—(1) Notwithstanding anything contained in this Act, the Government may, by notification in the Gazette, direct that in any specified trade or class of trades no transaction, dealing or contract shall be made or had except by weight only, or except by measure only.

(2) A notification issued under this section shall take effect in such area, with effect from such date, and subject to such conditions, if any, as may be specified therein.

Chapter III

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES

9. *Marking of denominations on commercial weights and measures.*—Every weight or measure manufactured for use as a commercial weight or measure shall bear the denomination of the weight or measure which it purports to be marked legibly on it in such manner as may be prescribed.

10. *Prohibition of sale of unstamped commercial weights and measures.*—No commercial weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or re-verified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector with a stamp of verification.

11. *Prohibition of use of unstamped commercial weights and measures.*—No weight or measure or weighing or measuring instrument shall be used in transactions for trade or commerce unless it has been verified or re-verified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector with a stamp of verification.

12. *Power of Government to exempt.*—Where the size of a commercial weight or measure renders it impracticable to have any denomination marked on it under the provisions of section 9 or to be stamped under the provisions of section 10 or section 11, the Government may, by notification in the Gazette, exempt such weight or measure from being so marked or stamped.

13. *Prohibition of manufacture, etc., of weights and measures without licence.*—No person shall, in course of trade, manufacture, repair or sell any commercial weight or measure or any weighing or measuring instrument unless he has obtained in the prescribed manner a licence in this behalf from the Government or any officer authorised by the Government.

14. *Marking of weight or measure in sealed containers.*—No person shall sell, offer for sale, expose for sale, or have in his possession for sale, any article contained in a sealed package or container unless such package or container bears thereon, or on a label securely attached thereto, a description of the net weight or measure of the article contained therein:

Provided that the provisions of this section shall not apply to an article sold, offered for sale, exposed for sale, or in possession for sale, which is not ordinarily sold in transactions for trade or commerce by weight or measure.

15. *Appointment of Controller and Inspectors.*—(1) The Government may appoint a Controller of Weights and Measures for the State of Kerala and as many Inspectors of Weights and Measures as may be necessary for exercising the powers and discharging the duties conferred or imposed on them by or under this Act.

(2) The Government may, by general or special order, define the local limits within which each Inspector shall exercise the powers and discharge the duties conferred or imposed on Inspectors by or under this Act.

(3) Subject to the provisions of this Act, all Inspectors shall perform their functions under the general superintendence and control of the Controller; and the Controller may, in addition to the powers and duties conferred or imposed on him by or under this Act, exercise any power or discharge any duty so conferred or imposed on Inspectors.

16. *Verification and stamping by Inspectors.*—(1) Every Inspector shall, for the purpose of verification of weights and measures and weighing and measuring instruments, attend at such place and time within his jurisdiction as may be appointed in this behalf by the Controller.

(2) The Inspector shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification and if he finds such weight or measure or weighing or measuring instrument correct and in conformity with the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956) and the rules made thereunder, he shall stamp the same with a stamp of verification in the prescribed manner.

17. *Power to inspect. etc.*—(1) An Inspector may, within the area under his jurisdiction, inspect, at all reasonable times, the weights, measures and weighing and measuring instruments which are used in transactions for trade or commerce or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or weighing or measuring instrument prescribed for the purpose.

(2) For the purpose of verifying the correctness of any weight or measure used in any transaction, an Inspector may also verify the weight or measure of any article sold or delivered in the course of the transaction.

(3) An Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection all weights, measures and weighing and measuring instruments which are used by him or are in his possession or are kept on any premises used for trade or commerce and all documents and records relating thereto and such trader, employee or agent shall comply with such requirements.

(4) An Inspector may seize and detain any weight or measure or weigbing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which might be used in the commission of such an offence, and may also seize and detain any article sold or delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument together with any documents or records relating thereto.

(5) Where an Inspector has reason to believe that a sealed package or container does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may break open the sealed package or container and verify its contents; and if, on such verification, the net weight or measure of the article is found to be correct, the Inspector shall re-seal the package or container where it is possible so to do without injury to the contents thereof and attach a certificate thereto stating the correct weight or measure of the article; but if, on the other hand, the net weight or measure of the article is found to be incorrect, the Inspector may seize and detain the package or container and the article contained therein.

(6) For the purpose of such inspection, an Inspector may, at all reasonable times, enter into any place where weights, measures or weighing or measuring instruments are used or kept for use in transactions for trade or commerce and inspect

such weights and measures and weighing and measuring instruments.

18. *Power of Inspector to adjust weights or measures.*—Where it appears to the Government desirable that an Inspector should be allowed, in any area, to adjust the weights or measures or weighing or measuring instruments, they may, if they think fit, authorise such Inspector to adjust the weights or measures or such instruments accordingly.

19. *Manufacturers, etc., to maintain records and accounts.*—(1) Every manufacturer, repairer or dealer in weights or measures or weighing or measuring instruments and every person using them in transactions for trade or commerce shall maintain such records and accounts as may be prescribed and if required so to do by an Inspector, shall produce such records and accounts before him.

(2) Notwithstanding anything contained in sub-section (1), if the Government are of opinion that, having regard to the nature of business carried on by any such manufacturer, repairer or dealer, it is necessary so to do, they may, by order, exempt such person or class of persons from the operation of that sub-section.

20. *Appeals.*—(1) Subject to the provisions of sub-section (2), an appeal shall lie—

(a) from every decision of an Inspector under this Act to the Controller; and

(b) from every decision of the Controller under this Act, not being a decision made in appeal under clause (a), to the Government or any officer specially authorised in this behalf by the Government.

(2) Every such appeal shall be preferred within sixty days from the date of the decision.

(3) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, decide the appeal and the decision of the appellate authority shall be final.

21. *Levy of fees.*—The Government may charge such fees—

(a) for the grant of licences under section 13, for the manufacture, repair or sale of commercial weights and measures and weighing and measuring instruments, and

(b) for the verification, marking, stamping and adjustment of commercial weights and measures and weighing and measuring instruments,

as may be prescribed:

Provided that no fee shall be chargeable under clause (b) for a period of three months from the date on which this Section is brought into force.

22. *Validity of weights and measures duly stamped.*—A weight or measure or weighing or measuring instrument duly

stamped by an Inspector under this Act shall be a legal weight or measure or weighing or measuring instrument in all places in which the relevant provisions of this Act have come into force unless it is found to be false or defective and shall not be liable to be re-stamped by reason merely of the fact that it is used in any place other than that in which it was originally stamped.

CHAPTER IV

PENALTIES.

23. *Penalty for sale or delivery by weight or measure other than standard weight or measure.*—Whoever, after the expiry of three months from the commencement of this section, sells or causes to be sold or delivers or causes to be delivered in the course of any transaction for trade or commerce any article by any denomination of weight or measure other than one of the standard weights or measures shall be punishable, for a first offence, with fine which may extend to two thousand rupees, and, for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

24. *Penalty for sale of unstamped commercial weights and measures.*—Whoever sells or delivers any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable with fine which may extend to two thousand rupees.

25. *Penalty for use of unstamped commercial weights or measures.*—Whoever uses in any transaction for trade or commerce, or has in his possession for such use, any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable, for a first offence, with fine which may extend to two thousand rupees, and, for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Explanation 1.—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or any employee or agent of such trader, such trader, employee or agent shall be presumed, until the contrary is proved, to have had it in his possession for use in transactions for trade or commerce.

Explanation 2.—Where any weight or measure or weighing or measuring instrument is used or possessed in contravention of this section by any employee or agent of a trader on behalf of such trader, such trader shall, unless he proves that the offence under this section was committed by his employee or agent without his knowledge or consent, be also deemed to be guilty of the offence.

26. *Penalty for manufacture of weights, etc., without licence.*—Whoever manufactures, repairs or sells any commercial weight or measure or weighing or measuring instrument without obtaining a licence as required by section 13, shall be punishable with imprisonment for a period which may extend to three months, or with fine, or with both.

27. *Penalty for use of weight or measure in contravention of section 8.*—Whoever contravenes any of the provisions of a notification issued under section 8 shall be punishable with fine which may extend to two thousand rupees.

28. *Penalty for failure to mark weight or measure in sealed containers.*—Whoever contravenes the provisions of section 14 shall be punishable with fine which may extend to two thousand rupees.

29. *Penalty for fraudulent use of weights, measures, etc.*—Whoever fraudulently uses any standard weight or measure or weighing or measuring instrument which he knows to be false shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

30. *Penalty for being in possession of false weight or measure, etc.*—Whoever is in possession of any commercial weight or measure or weighing or measuring instrument which he knows to be false, intending that the same may be fraudulently used, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

31. *Penalty for making or selling false weight or measure, etc.*—Whoever makes, sells or disposes of or causes to be made, sold or disposed of any standard weight or measure or weighing or measuring instrument which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

32. *Penalty for giving short weight or measure.*—Whoever in selling any article by weight or measure delivers or causes to be delivered to the purchaser less than what is purported to be sold shall, if the deficiency exceeds the prescribed limit of error, be punishable with fine which may extend to three hundred rupees.

33. *Penalty for forging, etc., of weights, measures, etc.*—(1) Whoever forges or counterfeits any stamp used under this Act for the stamping of any standard weight or measure or weighing or measuring instrument or possesses any such counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument or wilfully increases or diminishes a weight or measure so stamped, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

(2) Whoever knowingly uses, sells, disposes of or exposes for sale any weight or measure or weighing or measuring instrument, with such forged or counterfeit stamp thereon, or a weight or measure so increased or diminished, shall be punisbable with imprisonment for a period which may extend to six months, or with fine, or with both.

34. *Penalty for neglect or refusal to produce weight or measure, etc., for inspection.*—Whoever—

(a) refuses or neglects to produce for inspection under section 17 any weight or measure or weighing or measuring instrument or any document or record relating thereto in his possession or on his premises; or

(b) refuses to permit an Inspector to inspect and verify any such weight, measure, instrument, document or record; or

(c) obstructs the entry of an Inspector under section 17; or

(d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act;

shall be punishable with fine which may extend to five hundred rupees.

35. *Penalty for breach of duty by Inspector.*—If an Inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules made thereunder, he shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

CHAPTER V

MISCELLANEOUS

36. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Controller or any Inspector or any other person under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

37. *Controller and Inspector to be public servants.*—The Controller and the Inspectors appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

38. *Cognizance of offences, etc.*—(1) No court shall take cognizance of an offence punishable under this Act except upon complaint in writing made by the Controller or any officer authorised in this behalf by the Controller by general or special order.

(2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

39. *Stamped weight, etc., to be presumed to be correct.*—A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act and the rules made thereunder shall be presumed to be correct until its inaccuracy is proved, if it is produced in any court by any Inspector having charge thereof or by any person acting under the general or special authority of the Controller.

40. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

41. *Delegation of powers.*—The Government may, by notification in the Gazette, direct that any power exercisable by them under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

42. *Limits of error to be tolerated in weights and measures.*—Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), in this behalf, the Government may prescribe the limits of error which may be tolerated—

(a) in working standards referred to in section 3 ;

(b) in secondary standards referred to in section 4 ;

(c) in commercial weights and measures or in selling articles by weight or measure generally or as regards any trade or class of trades ; and

(d) in weighing and measuring instruments.

43. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the material of which and the designs and specifications according to which working standards may be made, the agency by which such standards may be prepared, the person by whom or the authority by which and the manner in which such standards may be stamped and authenticated ; the places at which and the custody and manner in which such standards may be kept ;

(b) the procedure for the verification or reverification and marking of working standards, the persons by whom, the places at which and the intervals at which they may be marked ;

(c) the material of which and the designs and specifications according to which secondary standards may be made, the places at which and the custody and manner in which such standards may be kept ;

(d) the procedure for the verification or reverification and marking of secondary standards and the manner in which they may be marked;

(e) the number of weighing and measuring instruments to be kept, the manner in which they may be verified and stamped and necessary particulars regarding the same;

(f) the manner in which the denomination of commercial weights and measures may be marked under section 9;

(g) the form and manner in which, and the conditions subject to which licences may be granted to persons for the manufacture, repair or sale of commercial weights and measures and weighing and measuring instruments;

(h) the qualifications, functions and duties generally of Inspectors under this Act;

(i) verification and stamping of weights and measures and weighing and measuring instruments and the period within which they are to be reverified;

(j) inspection of weights and measures and weighing and measuring instruments used in transactions for trade or commerce;

(k) the seizure, detention and disposal of weights and measures which are not authorised by this Act;

(l) the books, accounts and records relating to weights and measures and weighing and measuring instruments to be maintained and the manner in which they may be maintained or produced;

(m) the limits of error which may be tolerated in secondary or working standards;

(n) the limits of error which may be tolerated in weights and measures and weighing and measuring instruments used or intended to be used in transactions for trade or commerce;

(o) the limits of error which may be tolerated in selling articles by weights and measures generally or as regards any trade or class of trades;

(p) the form and manner in which appeals may be preferred against decisions of the Controller and the Inspectors and the procedure for hearing appeals;

(q) the fees which may be charged for the grant of licences under section 13 and for verification, marking, stamping and adjustment of weights and measures and weighing and measuring instruments and the levy and collection of the same;

(r) the material, form and specification and manufacture and sale of commercial weights and measures and weighing and measuring instruments; and

(s) any other matter which has to be, or may be, prescribed.

(3) In making any rule under this section the Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication in the Gazette.

(5) All rules made under this section shall, as soon as may be after they are made, be laid before the Legislative Assembly for a period of not less than seven days and shall be subject to such modifications, by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

44. *Repeal and saving.*—(1) The Madras Weights and Measures Act, 1948 (Act XXII of 1948), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), the Cochin Weights and Measures Act, LXIII of 1112, and the Travancore Weights and Measures Act, 1085 (Act VI of 1085), are hereby repealed.

(2) The Kerala Weights and Measures (Enforcement) Ordinance, 1958 (6 of 1958), is hereby repealed.

(3) Notwithstanding the repeal of the Ordinance under sub-section (2), anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken.

Legislature Secretariat,
Trivandrum,
9th December 1958.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.